



NGFA

Newsletter[®]

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STB: Rail Fuel Surcharges Based on Rates ‘Unreasonable Practice’

...Major Decision Echoes NGFA, Shipper Concerns; 30-Day Comment Period Set...

The federal Surface Transportation Board (STB) today (Aug. 3) issued a major decision on a wide range of issues concerning the application of rail fuel surcharges, including a finding that surcharges that are applied to the freight rate without regard to the increased fuel costs incurred to be an “unreasonable practice.”

The STB decision requested public comments within 30 days after it is published officially in the *Federal Register*.

If the STB ruling stands following the public comment period and further analysis by the STB, all of the Class I rail carrier fuel surcharge programs would be subject to substantial change, except for the BNSF surcharge programs for coal and

grain that already are mileage-based. All other carriers’ fuel surcharge programs are based upon a computed surcharge index applied to the rail rate, which the STB decision finds to be an unreasonable practice.

Among the decision’s multiple facets, the STB found that a carrier wishing to assess what it purports to be a fuel surcharge would need to develop a means of computing the surcharge that is attributable to the movement to which the fuel surcharge is applied. As the NGFA, National Industrial Transportation League, North Dakota Grain Dealers Association and other shipper organizations have said repeatedly to the agency and to rail carriers, fuel surcharge programs should be reasonably related to the increased cost of fuel on individual movements.

(Continued on page 7)

NGFA Urges CFTC to Provide Greater Transparency in Futures Report

...CFTC Staff: Investment Money Influx Could Affect Price Discovery...

The NGFA urged the Commodity Futures Trading Commission (CFTC) to provide greater transparency in its reporting of non-traditional hedging activity in its weekly Commitment of Traders (COT) report during the Aug. 1 meeting of the agency’s Agriculture Advisory Committee.

Speaking on behalf of the NGFA, First Vice Chairman and Risk Management Committee member Tom Coyle, general manager for Chicago & Illinois River Marketing LLC, Chicago, Ill., forcefully told CFTC commissioners that traditional commercial hedgers, producers and other market users need more complete information to make planting, marketing and hedging decisions. The NGFA for the past 18 months has been advocating that the CFTC create a new reporting category that would contain information on non-traditional hedging activity in futures markets, such as that involving commodity funds and swaps.

Perhaps the biggest eye-opener of the meeting came in

response to a question posed by CFTC Commissioner Mike Dunn, who chairs the Agriculture Advisory Committee. Dunn asked CFTC’s staff whether the non-price-responsive nature of investment funds, which to date have held only long positions in the futures market, could affect price discovery on futures exchanges. In response, John Fenton, deputy director for market surveillance at the agency’s Division of Market Oversight, responded that he believed that could be true.

Representatives of several other industry and producer organizations that, like the NGFA, have representatives serving as members of the CFTC Agriculture Advisory Committee also echoed the need for change. The Chicago Board of Trade, U.S. Rice Producers Association and the National Grain Trade Council each concurred that the COT report needs to be revised in response to market changes to promote additional transparency and to identify aggregate levels of market activity by non-traditional hedgers like funds and swaps dealers.

(Continued on page 8)



Senate Panel Considers Food Labeling Uniformity Legislation

The Senate Health, Education, Labor and Pension Committee on July 27 conducted a hearing to review legislation that would provide for nationally uniform warning labels on food, as issued by the Food and Drug Administration (FDA).

The measure (S. 3128), dubbed the “National Uniformity for Food Act,” is sponsored by Sen. Richard Burr, R-N.C., and includes 12 cosponsors – 11 Republicans and one Democrat, Sen. Ben Nelson of Nebraska.

The bill is supported strongly by food manufacturers and processor organizations that favor giving FDA federal preemption to establish science-based food safety, labeling and warning notifications on packaged food. Food companies supporting the legislation argued that a uniform standard would improve efficiencies and reduce costs, since they no longer would need to comply with varying standards in different states.

But the legislation has generated fierce opposition from some consumer and health groups, as well as the Association of American Food and Drug Officials and the National Association of State Departments of Agriculture, which have expressed concerns over whether the bill would undercut states’ authority to protect consumers by establishing warning statements or labeling requirements, including those governing animal feed. Under the bill, states wishing to maintain an existing – or establish a new – standard or labeling requirement that differs from FDA’s national standard would be required to petition FDA and submit science-based reasoning for deviating from the national standard.

A nearly identical bill (H.R. 4167) was passed by the House on March 8.

Headlining the hearing were Sens. Saxby Chambliss, R-Ga., Barbara Boxer, D-Calif., and Dianne Feinstein, D-Calif. Senate Agriculture Committee Chairman Chambliss supported the measure, noting that it represents, “a long-needed, common-sense approach to the regulation of packaged foods.” He stressed that in addition to the benefits of improved efficiency and reduced costs, the measure would provide customers with useful and clear information. Meanwhile, Boxer and Feinstein countered by expressing concerns that the bill would have the effect of preempting more than 200 state food safety protections that generally are more stringent than the federal standard. Both California senators noted that their state has some of the strictest standards and labeling requirements (authorized under the infamous Proposition 65), and would be the state most affected if the measure became law.

Other witnesses included a panel of private citizens who supported or opposed the measure, including former USDA Undersecretary for Food Safety Dr. Elsa Murano, who voiced support for the measure, and a former FDA official who expressed misgivings over expanding the agency’s role – citing an already overworked FDA staff operating with limited budget resources.

While the measure has garnered support from Republican senators, it currently appears there is enough strong Democratic opposition to keep it from being considered on the Senate floor.

Congress Takes August Break with Some Success but Much More To Do

Congress is scheduled to reconvene Sept. 6 for what is expected to be three weeks of pell-mell activity before an anticipated Sept. 29 recess to enable members to campaign for the fall elections.

The House began its summer recess on July 28 and the Senate is scheduled to follow suit on Aug. 4.

Already, there is talk of a “lame-duck” session during the week of Nov. 13 so Congress can complete action on appropriations bills for fiscal year 2007, which begins Oct. 1, 2006, as well as other delayed legislation that members do not want to address prior to the election. House leaders have indicated they expect business for the 109th Congress to be wrapped up by the end of that week and hope to adjourn by Nov. 17. But the Senate, traditionally slower in its deliberations, could force a December session as well.

Outlook for Waterways Bill: One critical success this summer was Senate passage of the legislation (S. 728) that would authorize \$1.8 billion in funding for construction of seven new 1,200-foot-long locks on the Upper Mississippi and Illinois Waterway. Next step for the legislation, the “Water Resources Development Act” (WRDA), is a joint House-Senate conference committee to resolve differences between the Senate-passed measure and one that cleared the House by a 406-18 vote in July 2005. Sen. James Inhofe, chairman of the Senate Environment and Public Works Committee and a strong supporter of the bill, will chair the conference. Congressional committee staff members already have begun to meet to lay the groundwork for the final measure.

Two key issues have been identified by bill supporters as priorities in the conference negotiations: 1) eliminate a Senate-approved amendment offered by Sens. Russell Feingold, D-



On Capitol Hill

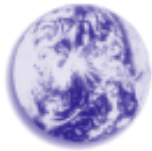
by Christopher Holdgreve
Director of Legislative Affairs
E-Mail: choldgreve@ngfa.org

Wis., and John McCain, R-Ariz., that would require cumbersome external reviews of U.S. Army Corps of Engineers projects; and 2) delete a Senate-passed provision that would establish a coordinating committee to further review and prioritize waterways projects. Both provisions would add additional layers of review above-and-beyond the already-significant project reviews conducted by the corps of engineers. The House version contains neither provision, so NGFA is encouraging conferees to support the House position.

Other Significant Legislation Awaiting Action: In addition to finalizing the waterways bill, Congress has a host of other

issues to tackle this year with the most pressing being the annual appropriations bills. While the House has passed all but one, the Senate has passed only one. That makes it likely that Congress will enact a massive spending measure covering the vast majority of federal spending for fiscal year 2007 in a single bill. Given tighter budgets to work with, this is likely to be held over into the post-election session to avoid some potentially tough votes on popular programs.

With the mid-term elections scheduled to be conducted one month after Congress returns, it is likely that September will bring mostly partisan posturing by Congress and the White House.



International Trade

by Christopher Holdgreve
Director of Legislative Affairs
E-Mail: choldgreve@ngfa.org

Some Major Players Attempt to Resuscitate WTO Doha Round

Several attempts are underway to identify potential new avenues to restart the World Trade Organization's (WTO) Doha Round negotiations.

WTO Director-General Pascal Lamy declared all aspects of the talks – including those on industrial goods and services – to be indefinitely suspended after meetings on July 22-23 in Geneva among trade and agricultural ministers from the G-8 countries (Australia, Brazil, the European Union (EU), India, Japan and the United States) failed to narrow differences.

U.S. Trade Representative Susan Schwab joined Brazilian Foreign Minister Celso Amorim in Rio de Janeiro last week in the first of a series of trips over the next several months that she said are part of a continuing effort to see if there is any near-term prospect for resuscitating the talks. Schwab said she plans to meet with other trade ministers from September through November on the sidelines of previously scheduled economic conferences and regional trade meetings. Schwab and Amorim, top trade officials in two of the largest agricultural exporting countries, emerged from the hastily called two-hour meeting noting the difficulty of the task at hand, but stressed that a deal could be reached within five to seven months.

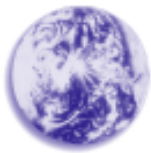
In addition to Schwab's travels to individual countries to try to restart the talks, Australia intends to use the 20th anniversary meeting in September of the Cairns Group, a block of free trade and minimally subsidized agricultural countries, as an opportunity to get trade ministers together. In addition to Cairns Group countries, Australia has invited ministers from as many as 50 countries to attend. The Cairns Group, named after a seaside town in Australia where it was created, includes: Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica,

Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, the Philippines, South Africa, Thailand and Uruguay. But late today, the prospects for such talks were undermined by the announcement from the European Union that its trade and agriculture ministers had turned down an invitation to attend. Schwab, Lamy and U.S. Secretary of Agriculture Mike Johanns, among others, already had indicated their acceptance of Australia's invitation.

In addition, the so-called "Group of 20" developing countries heavily involved in agriculture has scheduled a meeting in early September among their trade ministers in another attempt to get the talks back on track. Brazil, a leader among the G-20 nations, expressed concern that there is no alternative to the WTO, as regional and bilateral agreements represent a poor substitute to a multilateral approach to improving world trade. Foreign Minister Amorim noted that a failure in the WTO would be a disaster for Brazil, as well as the entire trading system, particularly if it breeds a new era of protectionism.

Hitting the Wall: Following the collapse of the talks in Geneva, Schwab and Secretary of Agriculture Mike Johanns criticized the EU and advanced developing countries like China, Brazil and India for failing to make substantive offers to improve market access. There were indications that the EU had offered to reduce its average farm tariff rate to a range of 50 to 51.5 percent, compared to its previous 39 percent offer. But the EU continued to hold out for shielding anywhere from 4 to 5 percent of its agricultural products from import competition altogether. During a press conference, Johanns cited the EU's current 80 percent tariff on beef imports, which it

(Continued on page 4)



"Doha Round" continued from page 3

offered to reduce to a still-insurmountable 61 percent, combined with a tariff-rate quota that he said would allow only 160,000 tons of beef from all sources to be imported into the EU. Johanns also said that advanced developing countries like China, India and Brazil were attempting to shield 95 to 98 percent of their agricultural products from import competition. Schwab and Johanns said a less-than-ambitious result from the Doha Round – which they dubbed “Doha Lite” – would be unacceptable to the United States.

The EU and other countries countered that the United States was to blame because, while professing that it had increased negotiating flexibility, it failed to table more ambitious offers to reduce trade-distorting domestic farm supports. Several trade ministers raised the prospect that litigation through the WTO against the allegedly trade-distorting farm

programs of the United States and EU now may replace negotiation, in a so-called “race to the bottom.” Concluded WTO Secretary-General Lamy: “...[L]et me be clear. There are no winners and losers in this assembly. Today, there are only losers.”

The key to success remains getting major trading nations, particularly the United States and the European Union, to submit improved offers on market access and reduced trade-distorting domestic supports.

U.S. Pursuit of Regional, Bilateral Free Trade Agreements:

Meanwhile, the United States has vigorously pursued regional and bilateral trade agreements since the Bush administration took office. The following table provides a snapshot of those initiatives.

Free Trade Agreements Completed or Begun Since 2001

| Country | Status | Implementation Date |
|-------------------------------|---|---------------------|
| Australia | Completed | Jan. 1, 2005 |
| Bahrain | Completed | Pending |
| Chile | Completed | Jan. 1, 2004 |
| Colombia | Completed <i>Awaiting Congressional Approval</i> | Pending |
| Costa Rica | Completed | Pending |
| Dominican Republic | Completed | Pending |
| Ecuador | Launched in 2004 Slow Progress | N/A |
| El Salvador | Completed | March 1, 2006 |
| Guatemala | Completed | July 1, 2006 |
| Honduras | Completed | April 1, 2006 |
| Jordan | Completed | Dec. 17, 2001 |
| Malaysia | Launched in 2006 Negotiations ongoing | N/A |
| Morocco | Completed | Jan. 1, 2006 |
| Nicaragua | Completed | April 1, 2006 |
| Panama | Launched in 2004 Negotiations Ongoing | N/A |
| Peru | Completed <i>Awaiting Congressional Approval</i> | Pending |
| Singapore | Completed | Jan. 1, 2004 |
| South Korea | 2 nd Session in July Completion Expected by end of 2006 | N/A |
| Southern Africa Customs Union | Launched in 2003 No Expected Completion Date | N/A |
| Thailand | Launched in 2003 | N/A |
| United Arab Emirates | Launched in 2005 Negotiations are ongoing | N/A |



USDA to Extend Comment Period for 60 Days on CCC Proposal to Eliminate Storage Agreements for Grain, Rice, Other Commodities

The NGFA has been notified by the U.S. Department of Agriculture (USDA) that it will extend the comment period for 60 days – until on or about Oct. 2 – on its proposal to eliminate the requirement that federal- and state-licensed warehouse operators enter into storage agreement contracts with the Commodity Credit Corporation.

USDA issued the proposal on July 3, and provided only a 30-day comment period, which would have ended Aug. 2. The NGFA, USA Rice Federation and the Independent Bankers of America submitted a joint letter to USDA urging that a 60-day extension in the comment period be provided. [See enclosed edition of *NGFA Issues and Actions*.] USDA Deputy Undersecretary of Agriculture for Farm and Foreign Agricultural Services Floyd G. Gaibler notified the NGFA on Aug. 1 that the comment period would be extended for 60 days, as requested.

Under its proposal, USDA would eliminate the requirement that federal- or state-licensed grain and rice warehouses to enter into a Uniform Grain and Rice Storage Agreement (UGRSA) contract. The USDA proposal also would end the requirement that licensed warehouses enter into storage agreement contracts for dry edible beans, peas and lentils, and peanuts. USDA's rationale for the change, as stated in its proposal, is that the advent of the marketing assistance loan program – with its alternative marketing loan repayment rates, loan deficiency payments and commodity certificates – has reduced dramatically the quantity of loan collateral forfeited into CCC's ownership. That, in turn, has reduced CCC's risk exposure and the need for storage agreement contracts, USDA stated. USDA also stated that given its reduced "exposure," it is willing to rely on the regulation and examinations of existing warehouse licensing authorities to protect CCC's interests at warehouses. Cotton is excluded from the proposal, USDA told the NGFA, because more than 90 percent of cotton under the price support program is stored in commercial warehouses.

Under its proposal, USDA said it "may" continue to utilize storage agreements for: 1) warehouses involved in long-term storage of CCC-owned commodities, such as commodities designated for the Bill Emerson Humanitarian Trust; and 2) warehouses that are not federally licensed that operate in states without licensing programs (such as California) before they are allowed to store CCC loan collateral. There currently are approximately 6,100 grain and rice warehouse facilities that have UGRSA contracts

with CCC, with a combined storage capacity of 7.8 billion bushels.

USDA's proposal conceivably would end separate and duplicative examinations conducted by federal and state examiners of state-licensed warehouses that also have storage agreement contracts with CCC. It also would end the annual process of renewing the UGRSA contract with CCC, and conceivably eliminate the ability of USDA to impose agroterrorism facility-security related requirements through the UGRSA contract (although it still could do so through the federal warehouse license or purchase contracts with warehouses that are vendors to CCC).

But while the proposed rule is silent on the matter, such a change could have significant repercussions for licensing fees for federally licensed warehouses, since CCC currently pays approximately 50 percent of the cost of federal grain warehouse examinations to reflect the protection provided to CCC's interests.

The elimination of the CCC storage contracts also would eliminate what amounts to a "minimum standard" (including financial requirements, such as net worth) that all state-licensed warehouses currently are required to meet before being designated as "USDA-approved" warehouses. By contrast, the financial and other requirements that apply to federal- and some state-licensed warehouses exceed the UGRSA requirements. In addition, USDA's proposal, as written, provides flexibility as to whether CCC will require non-licensed warehouse entities to enter into storage agreements before being eligible to store CCC loan collateral.

As noted previously, the CCC proposal also has raised significant questions about whether USDA should have the discretion – or whether it should be mandatory – to require warehouses that are not federally licensed to enter into storage agreement contracts in states, like California, that do not have state grain warehouse licensing laws, regulations or examinations. That, in turn, has raised questions over whether USDA will resume charging examination fees for warehouses that are not federally or state-licensed that enter into storage agreement contracts with CCC in the future. USDA discontinued charging such examination fees for the UGRSA in 1997.

The NGFA's Country Elevator Committee is taking the lead in developing the NGFA's comments to USDA.





USDA Requiring Beneficial Interest Warehouse Certification Statements on Production Evidence Submitted by Producers

The U.S. Department of Agriculture's Farm Service Agency (FSA) has told the NGFA that in cases where producers submit production evidence other than negotiable warehouse receipts when requesting loan deficiency payments (LDPs), it will require that warehouses to which the commodity was delivered include a certification statement attesting to the fact that the producer has retained beneficial interest (title and control) in the commodity.

The certification requirement is contained in loan program notice (Notice LP-2035) issued by the agency on July 7, the same one in which FSA rescinded a stipulation that placed a 15-day time limit on the retention of beneficial interest for commodities placed in "open storage" (also known as "open unsettled position" and other terms in the industry). [See *NGFA Newsletter*, July 20, page 2.] That same notice also clarified that warehouses are **not** required to issue warehouse receipts to document that the producer has retained beneficial interest in the commodity.

But FSA officials noted there remains a need for the agency to be assured that the producer has retained title and control of the commodity (and hence "beneficial interest") and is eligible to receive for marketing assistance loan gains and LDPs. Notice LP-2035 states that

forms of production evidence other than negotiable warehouse receipts (including load summary sheets) must be certified by the warehouse that ownership/title of the delivered commodity remains with the producer. Notice LP-2035 states: "If load summary sheets or delivery records are provided instead of negotiable warehouse receipts, the production evidence must include a certification statement from the warehouse indicating the following: *'Title and control remains with the producer and a negotiable warehouse receipt can be issued to the producer for the quantity physically delivered to the warehouse.'*" If the certification statement is not present on the production evidence at the time it is presented, FSA state and county offices have been directed to request such certification from the warehouse prior to making LDP payments to the producer.

FSA officials told the NGFA that they are incorporating this requirement into the *Loan Program Handbook* as an additional requirement for production evidence. FSA officials said that its offices in most states have notified warehouse operators of the requirement. Further, while certified LDP requests can be made and payments issued without production evidence, producers that are selected for spot-check audits are required to subsequently provide production evidence at that time, FSA said.

Farrish Resigns USDA Post to Take Helm of New Bioenergy Company

Bert Farrish, deputy administrator for commodity operations at the U.S. Department of Agriculture's Farm Service Agency, has resigned his post, effective Aug. 11 to become the president and chief executive officer of a newly formed bioenergy company to be based in Kansas.

Farrish told the NGFA that the company, Everton Energy, plans to build several 100-million-gallon ethanol plants, including one in Kansas that currently is scheduled to be constructed in the coming year. The company, which will be headquartered in Kansas City, Mo., also is exploring the potential for entering the biodiesel business at some stage, he said.

Farrish has held the key USDA post since June 2002. His responsibilities have included overseeing USDA's

activities concerning the federal warehouse program for grain and other commodities; the Uniform Grain and Rice Storage Agreement and other commodity storage contracts; CCC's disaster-response initiatives, including emergency livestock feed and post-Hurricane Katrina initiatives; and the Commodity Credit Corporation's acquisition of commodities for food aid and domestic feeding programs. Prior to joining USDA, Farrish was president of Columbia Grain Inc. in Portland, Ore., and was active in the North American Export Grain Association and Grain Elevator and Processing Society.

The NGFA has worked closely with Farrish both before and during his USDA career. The NGFA expresses appreciation for his public service and extends best wishes for his future endeavors.





"Fuel Surcharges" continued from page 1

In its decision, the STB agreed with the shipper's position on that matter, and further stated that "...because differences in base rates are not pegged primarily to differing fuel costs, we do not believe that it is a reasonable practice for railroads to compute fuel surcharges as a percentage of existing rates." In addition, the STB stated that cost-based surcharges might be achieved through mileage-based surcharges, ton-mile based surcharges, or alternative methodology, so long as the methodology resulted in surcharges reasonably related to the additional costs of particular movements.

The STB ruling also prohibited "double-dipping" on fuel surcharges by some carriers that assess fuel surcharges through the rail cost adjustment factor (RCAF) and then add a fuel surcharge on top of the RCAF. The STB ruling also prescribed a single fuel index for the railroads – the U.S. No. 2 diesel price at retail. The STB argued that this was the broadest-based index that was available with the shortest time lag in reporting.

The NGFA, in testimony presented at the STB's May 11 public hearing on rail fuel surcharges, had argued strenuously for greater transparency in the application of fuel surcharges. NGFA Rail Shipper/Receiver Committee Chairman Dan Mack, vice president, transportation for CHS, St. Paul, Minn., had stated: "We believe that some rail customer concerns over surcharges could be mitigated by carriers offering more transparency, making it more straightforward for shippers and receivers to evaluate the reasonableness and equity in the way surcharges are applied....If railroads expect their customers to compensate them for increased fuel costs, then they should be

willing to provide appropriate documentation to demonstrate they are only assessing charges that recover those costs and nothing more."

In response to this and similar concerns expressed by other shipper organizations, the STB requested that carriers begin immediately reporting on a monthly basis, total expenditures for fuel, total gallons of fuel consumed, increases or decreases in its cost of the fuel from the previous month, its revenue tons for the month, and its revenue tons to which the fuel surcharge was applied.

The STB decision also addresses a fundamental legal issue raised at the May 11 public hearing – whether rail fuel surcharge procedures could be considered "an unreasonable practice" subject to STB oversight or should instead be considered to be part of the freight rate, and therefore unchallengeable, absent a finding of market dominance of the carrier. The STB decision, in response to those arguments, stated, "we (STB) are not proposing to limit the total amount that a carrier can charge, through a combination of base rates and surcharges, for providing rail transportation. Rather, we are only addressing what we believe is an unreasonable practice of applying what the railroads label a fuel surcharge in a manner that is not limited to recouping increased fuel costs that are not reflected in the base rate. The measures we are proposing are designed to preclude such an **unreasonable practice**." [Emphasis added.]

Members receiving the *NGFA Newsletter* electronically may access the STB decision by [clicking here](#).

STB to Conduct Fall Public Hearing on Grain Rail Issues

The federal Surface Transportation Board (STB) announced July 28 that it intends to conduct a public hearing on an as-yet-to-be-set date this fall to address "certain issues related to the rail transportation of grain."

The STB's announcement referenced the recent Senate hearing at which the Government Accountability Office (GAO) – the investigatory arm of Congress – released the preliminary findings of its study on freight rail rates, competition and capacity issues. The GAO report is scheduled to be finalized by September, after which time the STB said it would set a date for a public hearing to provide a "forum...to provide views and information about the market conditions that led to these findings by GAO and information about grain transportation markets in

general."

The STB noted that one of the GAO's preliminary findings was that grain rail rates have "diverged" from rail industry trends. According to the GAO preliminary report, the volume of grain traffic with "comparatively high markups" over the carrier's variable cost increased notably between 1985 and 2004.

The STB's announcement also said it "anticipates inviting information regarding the interplay" between the U.S. and Canadian wheat markets, "how the Canadian regulatory system differs from the U.S. system and what impact those differences might have on U.S. grain production."



"CFTC Report" continued from page 1

One dissenter was the International Swaps and Derivatives Association (ISDA), whose representative expressed concerns that delineating futures market activity by funds and swaps dealers into a new, separate category could reveal positions or strategies of individual traders and could result in "front-running" of their positions. He contended that in some markets, as few as four traders could be included in such a new reporting category – though that is not believed to be the case for grains or oilseed futures. However, as Coyle pointed out, it would appear that if the CFTC retains its current policy of reporting only aggregate information for markets, in which there are at least 20 reportable positions, that concern could be allayed.

Next Steps on COT Report Issue: The CFTC in late June published a request for comments on potential changes to the COT report. The NGFA is preparing a detailed response to a series of questions posed by the agency. The NGFA's statement will include the recommendation that the CFTC establish a new category in the report to reflect futures market activity of non-traditional hedgers. On this important issue,

individual NGFA-member companies also may wish to submit comments to the CFTC. The deadline for doing so is **Aug. 21**. More information may be obtained by contacting NGFA Director of Marketing/Treasurer Todd Kemp at tkemp@ngfa.org, or by calling him at the NGFA at 202-289-0873.

Futures Contract Convergence and Basis Issues: A portion of the advisory committee's afternoon session was devoted to another issue of interest to NGFA members – an examination of "concerns in major grain markets regarding the weak cash bases and lack of convergence at expiration" of futures contracts. David Kass, an economist for the CFTC's Division of Market Oversight in Chicago, gave a presentation on this year's historically wide basis across commodities relative to last year and several previous years. He highlighted the soft wheat situation, and then documented his view that sharply higher diesel prices and barge freight rates were the causes. The NGFA's Coyle reminded the CFTC that other factors, including sharply higher futures this year and sluggish export demand, also have contributed to the current situation.

NGFA, GEAPS Conduct Successful Operations Seminar

The NGFA and the Grain Elevator and Processing Society teamed up to conduct another successful Operations, Management and Technology Seminar on Aug. 1-2 in St. Louis, Mo. More than 170 industry members and faculty attended the event, which was devoted to safety, health, environmental quality, facility security and human resource issues important to managers and operators of grain elevators, feed mills and grain processing plants. The day-and-a-half program was developed by the NGFA/GEAPS Safety, Health and Environmental Quality Committee. Topics included human resources management; new developments in the theory of behavior-based safety; safety, health and environmental auditing; oil spill prevention; electrical and manlift safety, and the Food and Drug Administration's bioterrorism recordkeeping regulations. A small tabletop trade show attracted eight exhibitors.

Industry faculty and members of the NGFA/GEAPS Safety, Health and Environmental Quality Committee are shown during the conference. Pictured are: (Front Row, from Left): NGFA Director of Regulatory and Technical Services Joe Garber; Matt Gibbons, safety director, ADM Grain Group, Decatur, Ill.; Ira (Bud) Nation, manager, safety and health, ADM, Decatur, Ill.

(Middle Row, from Left): Jill Davidson, manager, environmental/United States, ADM, Decatur, Ill.; Julie Bell, territory manager, RCI, Winterset, Iowa; David Nicewicz, regional safety coordinator, ADM Grain & Edible Bean, Reese, Mich.; Bob Marshall, safety director, Bunge North America, St. Louis, Mo.; Mark Calmes, vice president, Environmental Office of Compliance and Ethics, ADM, Decatur, Ill.

(Back Row, from Left): Gary Kearn, loss control/prevention manager, The Scouler Co., Salina, Kan.; Victor Hammer, director of environmental engineering, Land O'Lakes Inc., Arden Hills, Minn.; Paul Luther, environmental, health and safety leader, Land O'Lakes Purina Feed LLC, St. Louis, Mo.; Mark Daniels, director of health and safety, CHS Inc., St. Paul, Minn.; Rick Treeman, vice president, Johnston Enterprises, Enid, Okla.; Larry Bongle, operations manager, ConAgra Trade Group Inc., Omaha, Neb.; and Matt Hanks, human resources leader, Cargill AgHorizons, Wayzata, Minn.

Not pictured, were: Dr. Robert Gelina, director, Center for Continuous Quality Improvement, Ames, Iowa; Gary Higbee, president



and chief executive officer, Higbee & Associates Inc., Johnston, Iowa; Scott Harris, vice president, International Elevator, Atwood, Ill.; Michael Hauber, vice president, Perma Tron Elevator, Denison, Texas; and Lance Reeve, director of food safety, AIB International, Manhattan, Kan.; Marion Allen, inspections/compliance coordinator, FDA Center for Food Safety and Applied Nutrition, College Park, Md.; and Dr. Charles Hurburgh Jr., professor, Iowa State University, Ames Iowa.





FDA Schedules Public Meeting in September on New Animal Feed Safety System Initiative

The Food and Drug Administration's Center for Veterinary Medicine (FDA/CVM) has scheduled a Sept. 12 public meeting in Rockville, Md., to provide an update on the risk-ranking model it has been developing for assessing various 'contaminants' that may be present in feed and feed ingredients as part of its new Animal Feed Safety System (AFSS) initiative.

At the public meeting, the third conducted by the agency as part of the AFSS, FDA/CVM said it will describe the methods it used to develop the animal and human health "consequence scoring" for various chemical, physical and biological agents that may be present in feed and/or feed ingredients. Concurrently, FDA issued a "draft" list of 61 potential "hazardous contaminants" that may be present in feed and feed ingredients that are being evaluated through the risk-ranking model. Twenty-four of the identified potential "hazardous contaminants" are pesticides and pesticide residues, 11 are heavy metals and radionuclides, seven are other chemicals (including dioxins, mercury and selenium), seven are bacteria (including salmonella enterica) and five are mycotoxins.

At one or more subsequent meetings, FDA/CVM said it will present information on the degree to which animals

and humans actually may be **exposed** to such agents in feed. The as-yet-to-come exposure piece of FDA/CVM's risk-ranking model is to consider the degree to which the relative "hazard" of these agents is "modified" by feed or pet food manufacturing (e.g., further processing, pelleting, etc.), as well as storage, distribution and transportation activities. FDA/CVM says future meetings also will be used to present information about how health consequence scoring is combined with exposure scoring to ultimately determine the relative risks of these agents if present in animal feed and feed ingredients.

Members receiving the *NGFA Newsletter* electronically may access the FDA/CVM announcement by [clicking here](#). The list of potentially "hazardous contaminants" is available by [clicking here](#).

Free Registration: Several members of the NGFA's Feed Legislative and Regulatory Affairs Committee, as well as NGFA's staff, already have registered to participate in the public meeting. NGFA members wishing to attend should register as soon as possible by emailing Nanette Milton at nanette.milton@fda.gov or faxing her at 240-453-6880. Registration also may be done via the Internet by [clicking here](#). There is no charge to attend, but FDA/CVM says space is limited.

USDA Withdraws Proposal to Allow Imports of All Canadian Cattle

In response to the latest Canadian case of bovine spongiform encephalopathy (BSE), the U.S. Department of Agriculture's Animal and Plant Health Inspection Service on July 27 announced it was temporarily withdrawing a proposed rule that would have permitted the import all Canadian cattle and beef products.

The proposed rule had been submitted on July 6 to the White House Office of Management and Budget (OMB) for review and approval – a required step in the process for publishing federal regulations. Currently, the United States only allows imports of live cattle under 30 months of age from Canada, under stringent conditions on movement and slaughter.

But USDA said it was withdrawing the proposal until the results are completed of the epidemiological investigation into the seventh Canadian case of BSE, which involved a 50-month-old dairy cow born nearly five years after Canada implemented its BSE-preven-

tion feed regulations in 1997. It was the youngest BSE case to be diagnosed in North America.



Calendar

- Aug. 4, 2006:** NGFA Feed Legislative and Regulatory Affairs Committee
Sheraton Oklahoma City Hotel, Oklahoma City, Okla.
- Aug. 9, 2006:** NGFA Long-Range Planning Committee
Hilton Garden Inn O'Hare, Chicago, Ill.
- Aug. 30, 2006:** NGFA Risk Management Committee
Chicago Board of Trade Conference Room, Chicago, Ill.
- Sept. 10-11, 2006:** NGFA Board of Directors Meeting
Inn and Spa at Loretto, Santa Fe, N.M.
- Dec 3-5, 2006:** NGFA Country Elevator / Feed Industry
Conference & Trade Show
Hyatt Regency Crown Center, Kansas City, Mo.





Membership Matters

by Todd Kemp
Director of Marketing/Treasurer

NGFA's Sizzlin' Summer Heats Up August!

...More New Members; More Chances to Win 'Gateway Getaway'

New member companies continue to join the NGFA during our *Sizzlin' Summer* membership drive.

Recent additions include:

- ▶ **New Horizon Farm and Home Cooperative**, Garnett, Kan., sponsored by Kurt Swearingen, SEK Grain.
- ▶ **Columbian TecTank**, Parsons, Kan.

Congratulations to Kurt and all other successful recruiters during July and August. They qualify for the Grand Prize Drawing on Aug. 31 for the fabulous *Gateway Getaway*, which consists of:

- ▶ Airfare for two to St. Louis, Mo.
- ▶ Two nights at the Renaissance Grand Hotel.
- ▶ Dinner at a St. Louis hot-spot.
- ▶ Two tickets to a Cardinals game.

Lots of recruiting activity is underway! And now is the time to close the deal! Call your prospects again and ask them to FAX in an advance copy of their membership application to make sure you get credit!

Recruiting Tip: As mentioned in the previous *NGFA Newsletter*, registrations now are being accepted for space in the NGFA Trade Show conducted in conjunction with the Country Elevator/Feed Industry Conference in Kansas City, Mo. Every year, eight to 10 new member companies, mostly Associate members, join the NGFA to get member exhibitor rates. This is a potent recruiting tool! If you have a supplier or service provider not yet belonging to the NGFA, call and invite them to the trade show. It's an excellent marketing opportunity, and an exceptional value. Trade show materials are available by contacting the NGFA at 202-289-0873, by through the NGFA's web site at www.ngfa.org.

As you talk to Active membership prospects, remind them of NGFA's Rail Arbitration System and our leadership on rail representation; our tireless work on regulatory issues that save bottom-line dollars for everyone in the industry; our top-notch conferences and seminars for education and professional development; and all the other representation and business services that come with NGFA membership. Questions? Need materials sent or a follow-up call? Contact Todd Kemp at (202) 289-0873 or tkemp@ngfa.org.



National Grain and Feed Association
1250 Eye St., N.W., Suite 1003
Washington, D.C. 20005-3922

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